IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

-

WRIT PETITION NO : 1788 of 1997

Between:

The Bhairavapatnam Primary Agricultural Co-op. Credit Society, rep. By its President, Shri Chaparala Durga Prasad, s/o. Babu Rao, aged about 37 years, r/o Bhiravapatnam, Mandavalli Mandalam, Krishna District.

..... PETITIONER

AND

1. The Registrar, A.P. Co-op. Societies ltd., Nampally Road, Hyderabad.

2. The Assistant Labour Officer, Kaikaluru, Krishna District.

3. The Assistant commissioner of Labour & the Authority Under Section-20 of M.W.Act, 1948, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction, particularly one in the nature of “Writ of Certiorari” calling for records and quash the order of the 3rd respondent herein dated 06.09.1996 in M.W.Case.No.9.1995, being illegal, arbitrary, untenable and violative of Article-14 of the Constitution of India and without jurisdiction and pass such other order or orders as this Hon’ble Court may deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.VENKATA RANGADAS KANURI

Counsel for the Respondents: GP FOR FINANCE & PLANNING

The Court made the following:

ORDER:

This writ petition is filed by the petitioner Society, which is a Primary Agricultural Cooperative Credit Society, aggrieved by the proceedings of the third respondent who passed an order under the provisions of Minimum Wages Act, 1948, in M.W.Case.No.9 of 1995 dated 06.09.1996.

2. According to the petitioner, it is a Primary Agricultural Cooperative Credit Society registered under the A.P. Cooperative Societies Act, 1964 (for short 'the Act'). It is a Society Corporate, having perpetual succession and a common seal, formed with the object of increasing agricultural products and improving the standards of its members through self-help, mutual-aid and institutional assistance. It is also stated that the staffing pattern, classification, pay scales and other allowances of the petitioner Society's employees are to be fixed by the Society itself with the prior approval of the Registrar of the Cooperative Societies in terms of Section 16-C of the Act. Therefore, it is stated that the pay scales and other things are to be fixed by the Society itself, may be with the prior approval of the Registrar of Cooperative Societies. While so, the Government of Andhra Pradesh, Department of Women's Development, Child Welfare and Labour,

published a notification in the A.P. Gazette dated 03.06.1991, under which the minimum rates of wages payable to the employees of Marketing Societies and Cooperative Banks, were revised. On the ground that the petitioner Society is not paying the minimum wages as prescribed, the second respondent filed proceedings before the third respondent and the said proceedings were taken up by the third respondent on his file and after issuing notice to the petitioner Society, the third respondent adjudicated upon the issue and passed orders, directing the petitioner Society to pay certain amounts as differential wages payable to four of its employees, amounting to Rs.54,760/-. The said amount was directed to be paid within 30 days from the date of receipt of the order. Aggrieved by that, the petitioner has come up with the present writ petition.

3. The learned counsel for the petitioner contended that as per the notification, on the face of it, it is applicable only to the Marketing Societies and Cooperative Banks. The petitioner Society is neither a Cooperative Bank nor a Marketing Society, therefore the said notification has no application to the petitioner Society. The petitioner is a Primary Agricultural Cooperative Credit Society, which is not carrying on any business of marketing or banking except providing loan facilities to its members. Therefore, the petitioner Society would not come under any of the two categories specified in the notification issued by the State Government. Though this argument was advanced before the third respondent, the third respondent, on an erroneous view that the petitioner Society is a constituent of Krishna District Central Bank Ltd., held that the provisions are applicable to it apart from the provisions of A.P. Shops and Establishments Act, therefore passed the impugned order. The learned counsel also contended that the petitioner Society is an independent and separate entity, and it has nothing to do with the Krishna District Central Bank Ltd. The petitioner Society may borrow amounts from the Krishna District Central Bank for the purpose of distributing or advancing loans to its members, but by that the petitioner Society would not become a constituent of the Krishna District Central Bank. Therefore,

it is contended that the premise on which the third respondent proceeded, is illegal and unsustainable.

4. A counter has been filed on behalf of the respondents by the second respondent, reiterating the stand that was taken by him before the third respondent.

5. Heard the parties and considered the material on record.

6. Admittedly, the petitioner is a Primary Agricultural Cooperative Credit Society intended to assist its members for the purpose of obtaining loans from the District Cooperative Banks. The petitioner is not carrying on any business of marketing or banking. Further, a perusal of the notification issued by the State Government revising minimum wages clearly shows that it applies to the employees engaged in the Marketing Societies and Cooperative Banks in the State of Andhra Pradesh. The third respondent on the premise that the petitioner Society could be treated as a constituent of Krishna District Central Bank Ltd., treated it as a Bank for the purpose of applying the said Gazette notification and accordingly passed order determining the differential amounts of wages payable by the petitioner Society to four of its employees. The said premise on which the decision was taken by the third respondent, is illegal and unsustainable. *Prima facie*, the notification itself refers that the minimum wages notified are applicable only to the Marketing Societies and Cooperative Banks, whereas the petitioner Society would not come within the terms of either of the entities referred to therein. Therefore, the impugned order passed by the third respondent is clearly unsustainable. Accordingly, the impugned order is set aside and the writ petition is allowed. No costs.

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30.07.2004

VGB

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the thirtieth day of July, Two thousand and four.

REGISTRAR

To

1. The Registrar, A.P. Co-op. Societies ltd., Nampally Road, Hyderabad.

2. The Assistant Labour Officer, Kaikaluru, Krishna District.

3. The Assistant Commissioner of Labour & the Authority Under Section-20 of M.W.Act, 1948, Vijayawada, Krishna District.

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